

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

CLARENCE BOGAN,)
Petitioner,) Case No.: 19-cv-00812
vs.) JUDGE:
THE STATE OF OHIO, c/o)
DAVID YOST, Attorney General)
MICHAEL C. O'MALLEY, Cuyahoga)
County Prosecutor, CLIFFORD PINKNEY,)
Cuyahoga County Sheriff, and SHIRLEY) (Evidentiary hearing Requested)
STRICKLAND SAFFOLD, Judge Cuyahoga)
County Court of Common Pleas,)
Respondents.)

PETITIONER'S MOTION TO STAY STATE COURT PROCEEDINGS

Petitioner, Clarence Bogan, through his Attorneys, Mark A. Stanton, Cuyahoga County Public Defender and Erika Cunliffe, Assistant Public Defender, requests that this Court stay the legal proceedings in Criminal Case No. 16CR-605087 in the Cuyahoga County Court of Common Pleas while this Court addresses the issues underlying Mr. Bogan's Petition under Title 28 U.S.C. § 2241. The trial court has indicated that it wishes to proceed to trial forthwith. In support of this request, Petitioner maintains as follows:

On April 8, 2016, a Cuyahoga County grand jury issued an indictment charging Appellant Clarence Bogan with aggravated murder as set forth under R.C. 2903.01(A), murder under R.C. 2903.02(A), murder under R.C. 2903.02(B), felonious assault under R.C. 2903.11(A)(1), and domestic violence as provided under R.C. 2919.25(A).

Mr. Bogan pleaded not guilty and the matter proceeded to a jury trial on July 13, 2017. At the conclusion of the State's case-in-chief, the trial court dismissed the aggravated murder charge under Ohio Crim. R. 29. The jury retired to deliberate on the remaining counts. Early on the third day of deliberations the jury sent out a note saying that it was at an impasse. The court promptly declared a mistrial, discharged the jury, and scheduled a retrial for August 22, 2017.

Petitioner has challenged any retrial based on Double Jeopardy grounds. He has exhausted that claim in the State court.

The matter is now before the trial court which has appointed the Cuyahoga County Public Defender's Office to represent Mr. Bogan in the retrial. There has been no trial date set, but the court has indicated that it wishes to proceed to trial within the coming days, notwithstanding Mr. Bogan's petition (filed contemporaneously with this motion) challenging the proceedings in this Court.

CONCLUSION

WHEREFORE, Petitioner Clarence Bogan requests that this Court issue a stay of the proceedings in the Cuyahoga County Court of Common Pleas in CR 605087, until such time as this Court is able to determine the merits of his underlying Petition.

Respectfully submitted,

MARK A. STANTON
Cuyahoga County Public Defender

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Attorneys for PETITIONER
CLARENCE BOGAN

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she caused the above to be served on all identified parties through personal service, US Postal Service, and via this Court's electronic filing system on April 12, 2019.

s/Erika B. Cunliffe